

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 06-136(1) (DWF/FLN)

Plaintiff,

v.

ORDER AND MEMORANDUM

Edgar Gerardo Arguedas-Medina,

Defendant.

David P. Steinkamp, Assistant United States Attorney, United States Attorney's Office,
counsel for Plaintiff.

Kevin M. O'Brien, Esq., O'Brien Law Office, counsel for Defendant.

This matter is before the Court pursuant to the self-styled *pro se* request and notice of the Defendant for immediate deportation. The Court treats the letter and request, as informal as it was sent to the Court, as a formal motion in fairness to the Defendant, rather than simply filing a letter response from the Court to the Defendant with copies to all parties.

Based upon the request and presentation of the Defendant for immediate deportation, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. The Defendant's self-styled Notice of Motion for Immediate Deportation and request for immediate deportation and removal from the United States is respectfully **DENIED.**

Dated: May 8, 2008

s/Donovan W. Frank
DONOVAN W. FRANK
Judge of United States District Court

MEMORANDUM

First of all, the Court would indicate to the Defendant that in 10 years as a federal judge, the Court is aware of no case where a federal judge or other person in authority has ordered the immediate deportation before a person similarly situated to the Defendant has completed a sentence of imprisonment. The Court is of the view that neither the federal court nor the Attorney General of the United States has the authority to provide the relief requested by the Defendant even it were to find that his immediate deportation would be in the best interests of the United States.

Moreover, 8 U.S.C. § 1228(a)(3) addresses expedited removal of aliens convicted of committing aggravated felonies. Subsection (a)(3)(B) specifically states that: "Nothing in this section shall be construed as requiring the Attorney General to effect the removal of any alien sentenced to actual incarceration, before release from the penitentiary or correctional institution where such alien is confined."

Additionally, 8 U.S.C. § 1228(a)(1) states: “Nothing in this section shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.”

For the reasons stated, the Court has concluded that it lacks any authority to order the immediate deportation of the Defendant or any similarly situated individual.

D.W.F.